

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
April 26, 2005**

Place: Room 206  
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Bigelow, Conze, Forman, Kenny (arrived at 8:30)

STAFF ATTENDING: Ginsberg, Keating  
COURT RECORDER: Syat

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**PUBLIC HEARING**

Chairman Damanti called the meeting to order at 8:00 p.m. He noted that the following agenda item had been postponed:

**Business Site Plan #238, Land Filling & Regrading Application #139, 182 West Avenue LLC, 182 West Avenue.** Proposing to raze the existing residence, divide the property into two lots, construct a mixed-use commercial building on the front lot, and a residence on the rear lot, and perform related site development activities. The subject property is located on the northwest side of West Avenue, approximately 250 feet northeast of its intersection with Herman Avenue, and is shown on Assessor's Map #20 as Lot #10, in the SB and R-1/3 Zones.

Mr. Damanti then read the next agenda item:

**Continuation of Public Hearing regarding Business Site Plan #159-A, First County Bank, 1006 Boston Post Road.** Proposing to raze the existing buildings and to construct a new bank building with drive-through lane and perform related site development activities. The subject property is located on the southeast side of Boston Post Road approximately 400 feet southwest of its intersection with Center Street, and is shown on Assessor's Map #72 as Lot #10, CBD Zone. *PUBLIC HEARING OPENED ON FEBRUARY 1, 2005.*

Mr. Ginsberg noted that this application had received a variance from the Zoning Board of Appeals (ZBA). Ms. Forman explained that her daughter is the Executive Director of the DCA which owns and operates the DCA Thrift Shop located immediately adjacent to the subject property. She noted that she has no conflict on this application and has no personal interest one way or the other. However, she did not wish to compromise the Commission and asked if any Commission members or the applicant has any objection to her sitting on the application. After conferring with his clients, Attorney Wilder Gleason noted that he has no objection to Ms. Forman hearing and voting upon the application.

Attorney Wilder Gleason was present on behalf of the applicant to present the new plan which reflects the ZBA actions of last week and their concerns. He then showed a small 8-1/2 x 11 sheet showing the revised exit driveway. The building has been moved 4 feet back from the front property line. The landscaped area has been placed in front of the building to give drivers exiting

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the drive-up teller more chance to see pedestrians. The egress drive has been specifically angled for right turns only and includes a ballard at the end of the drive. Ms. Denise Halstead of Stearns & Wheler was present and explained that the bollards should strongly discourage any left turns out of the property. Mr. Gleason noted that they are still working with the DCA to resolve the question of whether the DCA will have exclusive use of two spaces in the bank parking lot. It was noted that the bank expects to have 20 to 25 vehicles maximum in the peak hour drive-thru use. The landscaping plan shows a wood fence along the DCA/bank parking. A sidewalk constructed to model block standards will be installed. Attorney Gleason noted the December 15, 2004 letter from the Board of Selectmen allowing the bank to connect with the municipal parking lot. He also noted that ARB and ZBA approvals had been granted and referred to an April 20, 2005 from the Darien Police Commission. Also presented was a April 26<sup>th</sup> e-mail from Mary Flynn regarding parking for the DCA.

Mr. Gleason noted that it is important to have the access from the Boston Post Road to the Center Street municipal parking lot. He explained that this is a 30 year lease to the bank and they will guarantee access through the property for 30 years or as long as the property is a bank use. Attorney Gleason had a draft proposed Stipulation regarding access to the municipal parking lot.

David Sullivan of Barkin & Mess was present to explain the Traffic Study. He noted that 19 parking spaces would be adequate for this use based on his research. He said that the bank should expect 75 customers per peak hour on a Saturday. Bob Halpin of First County Bank said that they now have 5 full time employees. An increase in demand of use may cause them to increase to six employees.

Mr. Bigelow asked whether they could have a speed bump installed to slow drivers down exiting the property. Mr. Gleason noted that the time deadline for the Planning & Zoning Commission to make a decision on this application is soon approaching, and he granted the Commission an extension to June 7<sup>th</sup> to decide the application. There were no further questions from the general public or the Planning & Zoning Commission. On a motion by Mr. Conze, seconded by Mr. Bigelow, the Commission voted unanimously to close the public hearing on this matter.

Mr. Kenny then arrived at the meeting at 8:30 PM, and Mr. Damanti read the next agenda item

**Special Permit Application #202-C, 980 Boston Post Road Associates, LLC, Cosi, Inc., 980 Boston Post Road.** Proposing to establish a restaurant in first and second floor space at 980 Boston Post Road, and to perform related site development activities. The subject property is located on the south side of Boston Post Road, approximately 175 feet west of its intersection with Center Street, and is shown on Assessor's Map #72 as Lots #6 and #6-4, in the CBD Zone.

Attorney Robert Maslan was present on behalf of the applicants. He noted that proof of mailing of notification and neighbors had already been submitted for the file. He submitted a packet of letters of support from neighboring owners, and showed photographs of the site and its surroundings. The subject property is the left half of the first floor condominium unit and a condominium unit on the second floor. The location of the Cosi restaurant would be between the Black Goose Grill and Upper Crust Bagels.

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Mr. David Genovese, one of the principals of 980 Boston Post Road, said that he will improve the rear dumpster area behind Upper Crust Bagels which is shared by a variety of businesses. He will install a clean dumpster and construct a new screening fence to be painted either green or white. He will reshape the fenced-in area and increase pick-up of trash from three times a week to five times a week. He confirmed that the dumpsters are used by all of the tenants of this site plus the Black Goose Grille.

Ms. Tracy McIntosh, of Cosi, said that Cosi is a premium convenience restaurant. Customers will order at a counter and then sit and have the food brought to them. The second floor kitchen would be for preparation and for cold storage. The first floor would be used for baking and ovens and have a dumb waiter service. Architect Chris Finn showed a floor plan of the restaurant and color photographs of recently completed stores. He also showed a materials surfaces board. It was noted that there is a baking oven on the first floor and vents up through to the second floor kitchen area. One set of revised floor plans was submitted. Mr. Finn noted that the floor plans are still being reviewed by the Health Department and Fire Marshal. It was explained that there will be approximately 55 seats for customers inside and they may seek outside dining sometime in the future. Ms. McIntosh explained that the general hours of operation would be 6:30 AM to midnight for customers and staff will generally be there a half hour before opening and a half hour after closing. They will only have a beer and wine license. Mr. Maslan confirmed that there would be no cooking or stoves upstairs. Food deliveries would be through the front and back doors and they will use the stairs to bring supplies upstairs. Mr. Genovese explained that they are trying to encourage the use of the municipal parking lot in the rear of the building. Mr. Finn explained that the condenser units from the refrigerator and freezer will also have vents on the roof. Ms. McIntosh explained that they are likely to have 6 to 10 employees on site.

Mr. Finn explained that there will be a 30 inch tall fan unit which will be very quiet. The high parapet roof will conceal the units. There will be no stove top or burners in the restaurant. Ms. McIntosh explained that they have never had a problem with odors in any of the Cosi restaurants. Mr. Maslan mentioned that this restaurant would provide another option for consumers in Darien and an upgrade from the existing conditions.

Mr. Andrew Dora explained that he has a law office across the hall from the proposed second floor food preparation area. He believed that it is not good to have a kitchen on the second floor of the premises. He also explained that the existing bathrooms on the second floor are not designed for kitchen workers. He also mentioned a question of security due to the long hours of operation of the restaurant compared to the existing office operations. The issue of venting is also a concern to him. Mr. Genovese responded that in his opinion there would be no benefit to having another bathroom upstairs solely for the one employee who is likely to work upstairs. Mr. Finn said under current codes, they are not required to have access to a second floor bathroom, and having the employees use the first floor bathroom would be perfectly acceptable. Mr. Dora also mentioned that dumpsters have been a problem in the past for this property.

Ms. Donna Cushington then asked how many parking spaces will be occupied by the 55 seat restaurant. She mentioned that congestion is already bad in the area, and it will be made worse by a more intense use. Mr. Maslan responded by noting that the previous owner of the site donated land to create/expand the municipal parking lot. That specific action by the prior owner exempted this building from providing the necessary on-site parking per the Darien Zoning Regulations. Mr.

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Kenny asked Ms. Cushington what she believed to be a reasonable distance for customers and workers to walk to a building. Ms. Cushington responded that, in her opinion, for fast food such as donuts, 100 feet would be an appropriate distance to walk, and for a facial or spa treatment or a movie, a quarter mile might be an appropriate distance. She said that the Commission should consider traffic/congestion and parking.

Mr. Maslan said that the applicant is willing to stipulate to a door on the second floor that is for an emergency exit only and have it alarmed (a "panic door"). They will commit to improving the existing trash/dumpster situation. He confirmed that the municipal parking lot which is immediately adjacent to this property is more than adequate to handle the perceived parking load. There being no further questions from the Commission or the general public, Mr. Conze made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

Mr. Damanti read the following agenda item:

**Special Permit Application #238, Ching's Kitchen, 879 Boston Post Road.** Proposing to establish a restaurant in the space formerly occupied by Baskin-Robbins ice cream at 879 Boston Post Road, and to perform related site development activities. The subject property is located on the north side of Boston Post Road, approximately 100 feet east of its intersection with West Avenue, and is shown on Assessor's Map #17 as Lot #3, in the CBD Zone.

Architect Neil Hauck was present to discuss the application along with the proposed tenant, Allen Li, and the property owner, Frank Elmasry. Mr. Hauck explained that Baskin Robbins is currently located within this building, and the applicant proposes to establish an Asian fusion restaurant. He then showed photographs of Mr. Li's other restaurants. Mr. Hauck explained that the restaurant is a high-end, well run restaurant, and the restaurant in New Canaan has 85 seats. They propose to maintain the existing front and rear entrances then make interior renovations to the property. Any deliveries to the property will come in the side door from the rear parking lot. They may add a "weather lock" door in the rear of the building. He said the ventilation from the large hood being installed controls the odors. They are still working with the Health Department regarding details of the kitchen area. The handicapped access will be through the rear door of the property. Mr. Hauck confirmed that any signage for the restaurant would need to go before the Architectural Review Board. He mentioned that the restaurant would be looking for a beer and wine license from the State of Connecticut.

Mr. Peter Corba was present to discuss the venting of the restaurant. They propose a 22 foot hood which would vent to the back. This would be 40 inches above the second floor roof and 15 feet away from any windows and 10 feet away from any walls. It was noted that they would need a charcoal filter and high voltage precipitator which would need to be 15 feet long, 5 feet high and 5 feet wide. The chimney plans were submitted for review. It was mentioned that the roof would not be able to support this equipment and they will need to put in columns down through the roof and down into the floor. They will also need a screen around it. Mr. Li said that they will have a simple menu and not any heavy cooking.

Ms. Donna Cushington was present, and said that in her opinion, parking at this site is very limited. By creating more demand with a very busy restaurant, there will be an impact on parking, and

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customers may need to park across the street. She believed the parking at the site is a real issue and she asked where people would park to pick up any take-out food. Ms. Shirley Baker of Koenig Art Store said that her building is located at the end of the block. She said that other surrounding businesses depend on the shared parking lot behind this building for adequate parking. She explained that maneuvering is very difficult in the back parking lot, especially since Katzenberg Café moved in. She said that the parking lot is frequently full at lunch time and there is restricted use at that time. She said that dinner is not a problem.

Mr. Frank Elmasry, the building owner, noted that parking is very scarce in New Canaan as well. He mentioned that dinner time and evenings should not be a problem for this restaurant and lunch would be more of a concern. He said that they are replacing a busy business (Baskin Robbins) especially at lunch times in the summer. He said that this restaurant is not an additional burden but it is just replacing an existing busy business.

Ms. Beth DuPont who owns a business at 865 Boston Post Road said that she is supportive of Ching's Kitchen, but she is asking how to get the parking problem solved. She noted that the parking needs to be addressed in this area. She also mentioned the need to have proper ventilation from the restaurant. Mr. Hauck explained that any employees of the restaurant could park in the Mechanic Street municipally owned lot across the street. There being no other questions or comments from the Commission or the general public, Mr. Conze made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

Mr. Damanti read the following agenda item:

**Coastal Site Plan Review #206, Flood Damage Prevention Application #220, Jane Halliwell, Trustee, 84 Ring's End Road.** Proposing to tie into the public sanitary sewer system, and perform related site development activities within regulated areas. The subject property is located on the west side of Ring's End Road, approximately 650 feet north of its intersection with Goodwives River Road, and is shown on Assessor's Map #51 as Lot #5, in the R-1 Zone.

Mr. Michael Fishman of Stearns & Wheeler explained that this is a sanitary sewer line extension and that they have recently received a Permit from the Environmental Protection Commission for work within 50 feet of inland wetlands. A portion of that line will be a gravity line, and then a grinder unit and low pressure pump system. The old cesspools would be abandoned and crushed.

Mr. Joe Gold of 27 Harbor Road noted that his property abuts the existing barn/apartment. He asked about the future use of such barn/apartment and whether it will be occupied and/or rented as an apartment. Mr. Orson McPherson explained that the carriage house/apartment was built in 1865. The apartment has been there for many years. Mr. Ginsberg then referred to the comments received from the State of Connecticut Department of Environmental Protection. He explained that they have no comments.

There being no other questions or comments from the Commission or the general public, Mr. Conze made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

Mr. Damanti read the following agenda item:

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**Land Filling & Regrading Application #138, J. Baron Land Corp., 16 Silver Lakes Drive.**

Proposing to fill, regrade, and construct a rip-rap retaining wall, and perform related site development activities. The subject property is located on the south side of Silver Lakes Drive, approximately 1,000 feet north of its intersection with Tokeneke Road, and is shown on Assessor's Map #37 as Lot #13 in the R-1/2 Zone.

Mr. Mark Andriuk, one of the property owners, explained that they are proposing to regrade in the back yard. A 3 to 4 foot high retaining wall will be located in the rear yard, and the purpose of the application is to create a more usable rear yard. They proposed to leave the existing trees near the rear property line as an existing buffer between the regarded lawn area and the adjacent property. They will be excavating an amount of material to include dry wells to account for drainage, and some of that regrading will help expedite this project. There is not much more fill needed to be brought on-site or taken off-site. There were no questions or comments from Commission members or the general public. Mr. Bigelow then made a motion to close the public hearing on this matter. That motion was seconded by Ms. Forman and unanimously approved.

There being no other business, the meeting was then adjourned at 10:50 PM.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning & Zoning Director

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